

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

PAUL J. McNALLY, as he is TRUSTEE,
MASSACHUSETTS LABORERS' HEALTH AND
WELFARE FUND and NEW ENGLAND LABORERS'
TRAINING TRUST FUND; JAMES MERLONI, JR.,
as he is TRUSTEE, MASSACHUSETTS LABORERS'
PENSION FUND and MASSACHUSETTS LEGAL
SERVICES FUND; MARTIN F. WALSH, as he is
TRUSTEE, MASSACHUSETTS LABORERS'
ANNUITY FUND,

Plaintiffs

vs.

ODF CONTRACTING CO., INC.,
Defendant

and

CITIZENS BANK,
Trustee

C.A. No. 03-12550 NG

**MOTION FOR AN EX PARTE ORDER OF
ATTACHMENT BY TRUSTEE PROCESS**

Now come the plaintiffs in the above-entitled matter and move this Court, pursuant to Rule 64 of the Federal Rules of Civil Procedure, G.L. c. 246 and Rule 4.2 of the Massachusetts Rules of Civil Procedure, for an Ex Parte Order of Attachment by Trustee Process of the bank accounts of defendant ODF Contracting Co., Inc. ("ODF") currently held by Citizens Bank, subject to the statutory exemptions of M.G.L. c. 246 and Title II of the Federal Consumer Credit Protection Act, 15 U.S.C. §1673, to the value of \$80,481.08, representing the demand for

judgment plus interest on late payments, estimated interest, statutory liquidated damages, attorneys' fees and costs.

In support thereof, plaintiffs state there is a substantial likelihood that the Funds will recover a judgment, including unpaid contributions, liquidated damages, interest, attorneys' fees and costs, in an amount equal to or greater than the amount of the attachments; that defendants are likely to move money from the accounts if they have knowledge of this motion; and that on information and belief, no liability insurance is available to satisfy the judgment.

In support of this Motion, plaintiffs rely on a Memorandum of Law submitted herewith and the Affidavits of Philip Mackay and Anne R. Sills, and other pleadings on file in this case.

Respectfully submitted,

PAUL J. MCNALLY, as he is
TRUSTEE, MASSACHUSETTS
LABORERS' HEALTH AND WELFARE
FUND, et al,

By their attorneys,



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Dated: December 23, 2003